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BEFORE THE
POLLUTION CONTROL HEARINGS BOARD
STATE OF WASHINGTON

IN THE MATTER OF)
PUGET SOUND RENDERING, INC.,)
)
Appellant,)
)
v.)
)
PUGET SOUND AIR POLLUTION)
CONTROL AGENCY,)
)
Respondent.)

PCHE Nos. 77-136 and 77-137
FINAL ORDER DISMISSING APPEALS

These consolidated matters came on regularly for hearing before the Pollution Control Hearings Board at 9:30 a.m. on December 15, 1977 at Lacey, Washington.

Respondent appeared by and through its attorney, Keith D. McGoffin. Appellant failed to appear. Mr. McGoffin stated that the Puget Sound Air Pollution Control Agency was prepared, with witnesses, to proceed with its case.

From an examination of the file, it appears that the Board received a written communication from appellant on December 15, 1977, the date

1 set for the hearing in which this Board was advised by appellant that:

2 I am unable to attend the meeting scheduled for 9:30 A. M.
3 on December 15, 1977.

4 Could you possibly schedule a meeting or conference at a
5 future date?

6 The pertinent Practice and Procedure rules of this Board are
7 found in WAC 371-08-165:

8 (1)(b) Requests prior to hearing. If, prior to the
9 hearing date, a party finds that he/she will not be able to
10 present all such evidence at the scheduled hearing, such
11 party shall file a written request for continuance with
12 the clerk of the Board setting forth the reasons therefor as
13 soon as such reasons are known.

14 (1)(c) Requests at time of hearing. If reasons
15 requiring a continuance of a hearing are not known in time
16 to permit compliance with subsection (b) of this section,
17 application therefor may be made orally at the hearing.

18 (1)(d) When granted. Applications for a continuance
19 made pursuant to subsections (b) or (c) above shall
20 only be granted upon a proper showing of good cause to prevent
21 manifest injustice. In order to show "good cause," the party
22 applying for a continuance because of the unavailability of a
23 witness or witnesses shall show that due diligence was exercised
24 in attempting to obtain the presence of such witnesses at the
25 time set for hearing and the reasons for their unavailability,
26 and shall identify the witnesses and explain, in substance,
27 what he/she intends to prove by the testimony of such witnesses.

(2) Hearing Postponements. A postponement of a hearing
may be requested by any party after receipt of the notice of
hearing PROVIDED THAT written objections are filed within ten
days of the receipt of such notice. Copies of such request
shall be served on all other parties. If the request is
granted, all parties shall be notified of the postponement.
Requests for postponement not filed within the ten day period
shall be granted only in exceptional cases to prevent manifest
injustice.

(3) Dismissal. If the moving party fails to appear at
the scheduled hearing and fails to obtain a continuance or
postponement as provided in this section, the appeal shall be
dismissed except to prevent manifest injustice or unless such
party can show good cause for such failure.


1 Treating the letter of appellant as a request for continuance,
2 this Board finds that such request has not set forth a proper showing
3 of good cause. Treating the letter of appellant as a request for a
4 hearing postponement, the request was not timely filed in accordance
5 with the Board's rule nor does it appear that a postponement should be
6 granted in order to prevent a manifest injustice.

7 Appellant having failed to appear for the hearing and having
8 failed to properly request and obtain a continuance or a postponement
9 of the hearing, now therefore, in accordance with WAC 371-08-165(3),

10 IT IS ORDERED that the appeals be and they are dismissed.

11 DATED this 16th day of December, 1977.

12 POLLUTION CONTROL HEARINGS BOARD

13 
14 W. A. GISSBERG, Chairman

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16 DAVE J. MOONEY, Member

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27 FINAL ORDER
DISMISSING APPEALS